LIBRARY
SUPREME COURT, U. S.

FILED
OCT 28 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

NO. 75-484

THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, Petitioner,

v.

UNITED STEELWORKERS OF AMERICA, AFL-CIO•CLC, Respondent,

and

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

On Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit

BRIEF FOR RESPONDENT IN OPPOSITION

CARL B. FRANKEL
RUDOLPH L. MILASICH, JR.
Assistant General Counsels
UNITED STEELWORKERS OF AMERICA, AFL-CIO•CLC
Five Gateway Center
Pittsburgh, Pennsylvania 15222

Counsel for Respondent

OF COUNSEL:
BERNARD KLEIMAN
General Counsel
UNITED STEELWORKERS OF AMERICA, AFL-CIO•CLC
Five Gateway Center
Pittsburgh, Pennsylvania 15222

SMITH BROS., LAW PRINTERS, 620 SECOND AVENUE, PITTSBURGH, PA. 15219
17

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

NO. 75-484

THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, Petitioner,

v.

UNITED STEELWORKERS OF AMERICA, AFL-CIO•CLC, Respondent,

and

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

On Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit

---

BRIEF FOR RESPONDENT IN OPPOSITION

The respondent The United Steelworkers of America, AFL-CIO•CLC, (hereinafter "Steelworkers Union") respectfully asks that the Petition For A Writ Of Certiorari to the Court of Appeals which is pending in the above captioned case be denied forthwith because the order which underlies this proceeding is a pre-trial order compelling discovery. The identical issue is presented in Petition No. 75-485 which seeks a writ of certiorari to a similar decision by the United States Court of Appeals for the Sixth Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals is reported at 519 F.2d 595. There is no official report of the District Court's opinion, and significant parts of the first part of that opinion have been omitted in the reprint which appears in the Appendix to the Petition. A correct reprint of the first portion of the District Court's opinion is contained in the Appendix to this Brief (Opp. App. 1a-8a).

JURISDICTION

The jurisdictional requisites are adequately set forth in the Petition.

QUESTION PRESENTED

Whether the "collateral order" exception to the final judgment rule should be extended to create an immediate appeal of right for parties who are ordered to answer interrogatories during the pre-trial stages of their own lawsuit which is pending in a federal district court?

STATUTES AND RULES INVOLVED

The pertinent provisions of the Constitution of the United States, of the Judicial Code, and of the Federal Rules of Civil Procedure are set forth at pp. 2-4 of the companion Petition, No. 75-485. However, the most pertinent provision of all was omitted, Rule 26(b)(1) of the Federal Rules of Civil Procedure which provides as follows:

> "(b) **Scope of Discovery.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:
>
> (1) *In General.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Fed. R. Civ. P. 26(b)(1).

STATEMENT

On May 15, 1972, the litigation which underlies this Petition was commenced by Grinnell Corporation (hereinafter "Grinnell") against the officials of the State of Rhode Island who administer that State's welfare and unemployment compensation programs, John J. Affleck[1] and Mary C. Hackett (hereinafter "State"). The Chamber of Commerce of the United States of America (hereinafter "Chamber") filed its Complaint in intervention against the State on May 30, 1972 (Pet. App. 13a-18a). The gravamen of those complaints is that the payment by the State of unemployment compensation to striking employees after seven weeks of unemployment as required by the Rhode Island Employment Security Act, R.I.G.L. § 28-42-1 *et seq.* (hereinafter "RIESA")[2] violates the Supremacy Clause of the United States Constitution because that State policy "interferes with and infringes upon free collective bargaining as guaranteed to plaintiff by Congress under the Labor Management Relations Act of 1947, as amended, 29 U.S.C. § 141 *et seq.* . . ." (Pet. App. 15a). The Steelworkers Union intervened to protect the interests of its members who were in the midst of conducting a lawful strike against Grinnell.

On June 15, 1972, the District Court dismissed both complaints essentially holding that the issue of

---

1. John J. Affleck is not involved in administering the Rhode Island unemployment compensation program and is no longer a part of this litigation.

2. There is a general statutory requirement of one week of unemployment before benefits may be paid, R.I.G.L. § 28-44-14, and an additional six weeks of unemployment required of individuals who are "unemployed because of a strike. . . ." R.I.G.L. § 28-44-16.

the validity of the State's payment of welfare benefits and unemployment compensation to strikers was nonjusticiable. Appeals were taken only from the dismissal of the unemployment compensation-Supremacy Clause issue, and on March 15, 1973, the Court of Appeals reversed the dismissal and remanded the case to the District Court for further proceedings. *Grinnell Corporation v. Hackett,* 475 F.2d 449 (1973), *cert denied,* 414 U. S. 858 (1973). In the comprehensive Opinion filed at that time, the Court of Appeals specifically directed that an "adequate evidentiary record" be developed in order to provide "an appropriate and detailed evidentiary basis for deciding the preemption issue, and in particular the issue of infringement of federal policy." 475 F.2d at 461.

The Court of Appeals held that the "macrocosmic test," which had been announced in *I.T.T. v. Minter,* 435 F.2d 989 (1st Cir. 1970), *cert denied,* 402 U.S. 933 (1971) as governing Supremacy Clause challenges to the payment by states of welfare benefits to striking workers, also governed the unemployment compensation-Supremacy Clause issue. Under that test, the Chamber and Grinnell must establish by the preponderance of evidence that the State's policy of paying unemployment benefits to strikers results in: (1) workers stiffening bargaining demands beyond that which they would have demanded absent the availability of such benefits; (2) workers striking when absent such availability they would have settled without a strike; and, (3) strikes continuing for longer periods of time and resulting in higher settlements than would have resulted without such availability. Not only must they produce factual evidence tending to establish these factors, but they must

also establish a "causal relationship" between the factual evidence offered and the ultimate issue of impact on the federal right to free collective bargaining. 475 F.2d at 458-459.

Even before the remand the Chamber voluntarily adopted the "macrocosmic test" as the standard governing this case when it alleged in its Complaint that because of the State's policy of paying unemployment compensation to striking employees, "Intervenors' aggrieved members are therefore uniformly forced either to agree to higher labor costs, or face additional losses of profits caused by prolonged strikes." (Pet. App. 16a). Subsequent to the remand, all parties, including the Chamber, have engaged in extensive pre-trial discovery.

However, the progress towards trial came to a standstill when the Chamber began its efforts in January of this year to obtain pre-sanction appellate review of the District Court's order compelling it to answer the following interrogatory:

> "1. List the name, principal office address and Rhode Island address of each 'underlying' member business firm of the Chamber or of its affiiliate, the Greater Providence Chamber of Commerce (hereafter 'Providence Chamber') who is now or who at any time relevant to this action has been an employer subject to the Rhode Island Employment Security Act, 28 R.I.G.L. § 28-42-1 *et seq.* (hereafter 'RIESA')." (Pet. App. 20a).

The challenged interrogatory was one of a set of twenty-two interrogatories which the Steelworkers Union served upon the Chamber on July 17, 1974 (Pet. App. 30a). Interrogatories 13 through 22 of that

set require the Chamber to document in detail its position with regard to each element of the macrocosmic test (Pet. App. 25a-30a). In its Complaint, the Chamber had also alleged that "[t]he memberships here represented by intervenors are suffering and will continue to suffer irreparable injury . . ." as a result of the challenged State policy (Pet. App. 16a), and Interrogatories 2 through 6 require the Chamber to document in detail that injury (Pet. App. 21a-22a). The Steelworkers Union had served an almost identical set of interrogatories upon the Chamber in *Dow v. Taylor,* Civil No. 38644 (E.D. Mich.). Paralleling its action in *Dow,* the Chamber's response to all of these interrogatories was evasive and incomplete.[3] Therefore, obtaining the membership list requested in Interrogatory No. 1 became essential[4] because only by approaching the Chamber's members directly would the Steelworkers Union be able to obtain information about the injury, alleged in the Complaint, that these employers had suffered in strike *and non-*

---

3. With regard to the injury allegedly suffered by its member-employers, the Chamber responded that it has "no studies or information concerning its members in this respect." (Opp. App. 8a). With regard to the complete and detailed identification requested of those strikes upon which the Chamber would rely to prove the elements of the "macrocosmic test," the Chamber simply made a general reference to any strikes mentioned in the prior depositions and affidavits which were already on file in the litigation (Opp. App. 8a-10a). There are enumerable strikes mentioned in those materials, and the Steelworkers Union still does not know upon which of those strikes the Chamber will rely at trial.

4. Had the Chamber answered all the interrogatories, except for Interrogatory No. 1, in full and complete detail, the Steelworkers Union would not have been able to press its request for the membership list.

strike[5] situations as a result of the challenged State policy.

District Court's Opinion

In a written Memorandum, filed on December 30, 1974, the District Court concluded that the information sought by Interrogatory No. 1 was both relevant and non-privileged and was therefore discoverable under the provisions of Rule 26(b) (1) of the Federal Rules of Civil Procedure (Opp. App. 2a-3a).

As to the relevancy of the membership list itself, the District Court stated that because of the allegations made by the Chamber in its Complaint of specific injury to its members, "I find inquiry No. 1 relevant and should be answered." (Opp. App. 2a). With regard to the overall relevancy consideration, the Memorandum notes:

> "While it is true that the Court of Appeals, in remanding this case, emphasized a 'macrocosmic' approach to the issues of federal pre-emption rather than a 'particularistic' inquiry, 457 F.2d at 458 n.9, it is clear that to answer the questions raised by the Court of Appeals, a massive body of data must be compiled by the plaintiff and plaintiff-intervenors to meet the burden of proof on the allegations raised in their Complaints. The 'Chamber' itself has al-

---

5. It is important to note that under the *Grinnell* "macrocosmic test," the experience of the Chamber's members as Rhode Island employers in non-strike situations is also highly relevant. 475 F.2d at 458. The Chamber itself emphasized the importance of non-strike situations when it alleged in its Complaint that as a result of the State's policy "Intervenors' aggrieved members are therefore uniformly forced either to agree to higher labor costs, or face additional losses of profits caused by prolonged strikes" (Pet. App. 16a).

> leged adverse economic impact on its Rhode Island members by virtue of the 'R.I.E.S.A.' and it must substantiate its allegations by inquiry into the effect on the 'R.I.E.S.A.' While the pre-emption question will obviously be argued in terms of experiences beyond the boundaries of the State of Rhode Island, *certainly the impact on Rhode Island 'Chamber' members is highly relevant to the* allegations raised by plaintiff-intervenor. *See Complaint* 5, 13, 14." (Opp. App. 3a-4a) (emphasis added).

As it had in *Dow,* the Chamber claimed here that disclosure of the membership list would violate its members' First Amendment associational rights as recognized in *N.A.A.C.P. v. Alabama,* 357 U.S. 449 (1958). With regard to an element which is a necessary prerequisite to that claim of constitutional privilege, the District Court found that the entry of a strong protective order[6] prohibiting public disclosure of the identities of the members, when combined with other state and federal laws, would provide "ample protection to 'Chamber' members from illegal picketting [sic] or other illegal economic pressure or conduct which the 'Chamber' feels might follow from the revelation of the identity of certain of its members." (Opp. App. 5a).

---

6. The protective order entered on January 15, 1975 reads as follows:

> "Defendant-Intervenor United Steelworkers of America, AFL-CIO-CLC will not make use of the list of member firms which the Chamber of Commerce of the United States of America and the Greater Providence Chamber of Commerce must provide in answer to interrogatories or disclose the identity of such member business firms except for the sole purpose of defending this lawsuit and for no other purpose." (Pet. App. 11a).

The District Court also held that any such privilege must be deemed to have been waived by the Chamber, as a party plaintiff, insofar as disclosure of information relevant to the allegations in its own Complaint is concerned (Opp. App. 4a-5a).

The District Court entered its order on January 15, 1975, compelling the Chamber to answer Interrogatory No. 1 (Pet. App. 10a). Thereafter, the District Court denied the Chamber's motion for reconsideration and also denied its motion for certification of the discovery issue as appealable under 28 U.S.C. § 1292(b). The Chamber filed a timely notice of appeal on January 31, 1975 (Pet. App. 41a).

Court of Appeals Opinion

The Chamber applied to the Court of Appeals for a temporary stay of the District Court's order which was granted. However on March 7, 1975, the Court of Appeals dissolved that stay (Opp. App. 12a). The hearing of the appeal was accelerated.

The Court of Appeals issued its decision on July 29, 1975, dismissing the appeal for want of appellate jurisdiction and denying the writ of mandamus for want of extraordinary circumstances. *Grinnell Corporation v. Hackett,* 519 F.2d 595 (1st Cir. 1975).

The Court of Appeals carefully analyzed and rejected the Chamber's primary contention that it had a right to an immediate appeal under the "collateral order" doctrine enunciated by this Court in *Cohen v. Beneficial Industrial Loan Corp.,* 337 U.S. 541 (1949). To be appealable under *Cohen,* an order must possess all three of the following characteristics: separability from the issues in the underlying litigation; importance in

the sense that it must present a serious and unsettled question; and urgency such that immediate review must be granted or the rights involved will be lost, probably irreparably (Pet. App. 3a). With regard to separability, the Court of Appeals concluded that "the discovery order here is materially connected with the underlying preemption issue" (Pet. App. 5a). As to importance, the Court of Appeals rejected the Chamber's assertion that the appeal presented questions concerning the scope of First Amendment protections afforded to corporations because the District Court did not base its discovery order on a rejection of the Chamber's theory but rather upon the fact "that the information sought was 'highly relevant'. . . ." (Pet. App. 6a). Finally, the Court of Appeals concluded that there was no urgency in this case because there is a procedure whereby the Chamber could obtain appellate review without disclosing the list by simply refusing to comply with the District Court's order and by taking an appeal after sanctions of contempt or dismissal had been imposed upon it for that non-compliance (Pet. App. 7a). Thus the order compelling the Chamber to answer Interrogatory No. 1 was found to be wanting with regard to each of the three characteristics which an order must possess if it is to be appealable under the *Cohen* exception.

The Court of Appeals was equally as exhaustive in its consideration of the Chamber's request that a writ of mandamus be issued. The Court of Appeals concluded that traditional mandamus did not lie because there was no "clear usurpation of judicial power" here; that "supervisory" mandamus was not appropriate because the District Court had not exhibited "any persistent or deliberate disregard for limiting rules"; and that "advisory" mandamus was not available because the issue

was not one that would arise frequently before the issue could reach the appellate courts (Pet. App. 8a). Overall, the Court of Appeals declined to issue the writ of mandamus because it concluded that irremediable harm would not result to the Chamber or its members from the denial of immediate appellate review, especially in view of the availability of the alternative of review through contempt (Pet. App. 8a).

The Chamber filed a petition for rehearing which was denied by the Court of Appeals on September 9, 1975 (Opp. App. 13a).

ARGUMENT

The Chamber has taken the position that the issues presented by its Petition in this case are identical to those presented in its Petition, No. 75-485, for a writ of certiorari to the similar decision of the Sixth Circuit in the *Dow* litigation. Accordingly, the Argument which the Steelworkers Union has presented in its Brief in opposition to Petition, No. 75-485 is equally applicable here, and there is no need to restate that Argument in this Brief.

CONCLUSION

For the foregoing reasons and the reasons set forth in the Brief For Respondent in Opposition filed in Petition No. 75-485, it is respectfully submitted that this Petition for a writ of certiorari should be denied.

Respectfully submitted,

CARL B. FRANKEL
RUDOLPH L. MILASICH, JR.
Assistant General Counsels
UNITED STEELWORKERS OF AMERICA,
AFL-CIO•CLC
Five Gateway Center
Pittsburgh, Pennsylvania 15222

Of Counsel:

BERNARD KLEIMAN
General Counsel
UNITED STEELWORKERS OF
AMERICA, AFL-CIO•CLC
Five Gateway Center
Pittsburgh, Pennsylvania 15222

RESPONDENT'S APPENDIX

DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF RHODE ISLAND

GRINNELL CORPORATION v. MARY C. HACKETT and THE CHAMBER OF COMMERCE of the UNITED STATES OF AMERICA, et al., plaintiff-intervenors and THE UNITED STEELWORKERS OF AMERICA defendant-intervenor	C. A. No. 4926

Memorandum

Defendant-intervenor the United Steelworkers of America ("Steelworkers") have propounded interrogatories to both the plaintiff, Grinnell Corporation, ("Grinnell") and plaintiff-intervenor The Chamber of Commerce of the United States of America ("Chamber"). The "Chamber" has made specific objections to interrogatories One and Nine and has refused to answer interrogatories Two through Six on the grounds that the "Chamber" has no information relating to the questions asked. "Grinnell" has objected to all ten interrogatories addressed to it by "Steelworkers". It should be noted that the ten interrogatories propounded to "Grinnell" are identical to interrogatories 13 through 23 propounded to the "Chamber", which interrogatories have been answered by the "Chamber".

Respondent's Appendix.

CHAMBER INTERROGATORIES

(1) Objection to #1 through 6

Interrogatory #1 requests a list of members of the "Chamber" who are subject to the Rhode Island Employment Security Act. The "Chamber" objects to this interrogatory on several grounds:

1) The membership list of the "Chamber" is constitutionally privileged from disclosure, as such disclosure would create a chilling effect on the exercise of members' First Amendment right to freedom of association. *NAACP v. Alabama,* 357 U.S. 449 (1958); *Bates v. City of Little Rock,* 361 U.S. 516 (1960). Furthermore, the "Chamber" asserts that the "Steelworkers" are unable to show a compelling need for such information such as would override the First Amendment deprivation.

2) Disclosure of the membership list would cause irreparable injury to the "Chamber" and its members, by virtue of possible violence, picketting, vandalism and harassment by pro-labor groups against "Chamber" members.

3) The membership list is a confidential trade secret and therefore protected under Fed.R.Civ.P. 26(c)(7). The "Chamber" alleges that under that Rule, the "Steelworkers" have failed to meet the burden of establishing the relevance of and necessity for the material sought in relation to its defense.

Because of the allegations in paragraphs 13 and 14 of the "Chamber's" complaint I find inquiry No. 1 relevant and should be answered. I concede the relevant inquiry may go beyond "Chamber" members, however, this does not negate counsel's argument on behalf of the

"Steelworkers" that the "Chamber" is a voluntary party to this action and has itself alleged injury to its members. The door has been opened warranting answer to interrogatory #1, so that the "Steelworkers" may inquire specifically as to these alleged injuries.

Now assuming there is a privilege to protect identity they have interjected the issue and cannot now complain. I further cover this point infra. Objection to #1 is overruled—limited however to the period of May 29, 1969 to the present.

Interrogatories 2 through 6 are highly relevant to the issues before the Court, in that they inquire into the experience of member firms of the "Chamber" in Rhode Island in any strike situations which may have occurred. The "Chamber" has not answered these interrogatories, alleging that answering would constitute disclosure of members' identities in violation of the First Amendment; that such information concerning the experience of "Chamber" members is irrelevant in that the pertinent inquiry is the impact upon all employers in Rhode Island, not just "Chamber" members; that such information can be gleaned from public records and directly from any Rhode Island employer who has been involved in a strike; that the "Chamber" has no knowledge or documents relating to the subject of these interrogatories and to require them to acquire and compile such information from members would be burdensome and oppressive.

While it is true that the Court of Appeals, in remanding this case, emphasized a "macrocosmic" approach to the issues of federal pre-emption rather than a "particularistic" inquiry, 457 F.2d at 458 n.9, it is clear that to answer the questions raised by the Court of Appeals, a massive body of data must be compiled by

the plaintiff and plaintiff-intervenors to meet the burden of proof on the allegations raised in their Complaints. The "Chamber" itself has alleged adverse economic impact on its Rhode Island members by virtue of the "R.I.E.S.A." and it must substantiate its allegations by inquiry into the effect of the "R.I.E.S.A.". While the pre-emption question will obviously be argued in terms of experiences beyond the boundaries of the State of Rhode Island, certainly the impact on Rhode Island "Chamber" members is highly relevant to the allegations raised by plaintiff-intervenor. *See* Complaint 5, 13, 14.

As Judge Feikens stated in *The Dow Chemical Company et al. v. Taylor,* C.A. No. 38644 (memorandum opinion, June 27, 1974) at 4:

> "It is elementary that a party must as a matter of course have the right to inquire into the factual bases of allegations contained in the opponent's pleadings. *See, e.g. Hughes v. Groves,* 47 F.R.D. 52, 57 (W.D. Mo. 1969); *Lance, Inc. v. Ginsburg,* 32 F.R.D. 51, 52 (E.D.Pa. 1962)."

Interrogatories 2 through 6 do no more than this. Even assuming that the "Chamber's" claim of constitutional privilege would otherwise be available to the "Chamber" and its members under the authority of *NAACP v. Alabama, supra,* and its progeny,

> ". . . it would be fundamentally unfair to permit a party to withhold information relevant to allegations which it has itself made and the issues thereby raised. [and in such circumstances] the party must choose between its allegations and its privilege. *See Awtry v. United States,* 27 F.R.D. 399, 402-03 (S.D.N.Y. 1961); *Independent Productions Corp. v.*

Loew's, Inc., 22 F.R.D. 266, 276-77 (S.D.N.Y. 1958)." *Dow Chemical, supra* at 4.

In light of the "Chamber's" fear that revelation of the identity of some of its members would bring about reprisals from various pro-labor groups, defendant-intervenor has agreed to be bound by a protective order relating to the confidentiality of the identity of "Chamber" members, and the following language will be incorporated into the order of this Court:

> "Defendant-Intervenor United Steelworkers of America, AFL-CIO-CLC will not make use of the list of member business firms which the Chamber of Commerce of the United States of America must provide in its answer to the Interrogatories or disclose the identity of such member business firms except for the sole purpose of defending this law suit, and for no other purpose."

Such a protective order, together with the federal labor laws and other state and federal laws, provide ample protection to "Chamber" members from illegal picketting or other illegal economic pressures or conduct which the "Chamber" feels might follow from the revelation of the identity of certain of its members. I also find the aforementioned protective order to be sufficient under Rule 26(c)(7), Fed.R.Civ.P., to protect the confidentiality of the "Chamber's" membership list.

As to the "Chamber's" argument of excessive burden in producing the information called for by interrogatories 2 through 6 it should be noted that defendant-intervenor is not seeking statistical information to be compiled by plaintiff-intervenor which goes solely to establishing its own defense, nor is it clear that the information sought by defendant-intervenor is obtain-

able from other sources equally available to both sides. Defendant-intervenor is not asking plaintiff-intervenor to do its own research, *Krantz v. United States,* 56 F.R.D. 555 (D.Va. 1972), but is merely seeking the statistical basis of plaintiff-intervenor's allegations.

> "An interrogatory will not be held objectionable as calling for research if it relates to details alleged in the pleading of the interrogated party, about which he presumably has information, or if the interrogated party would gather the information in the preparation of his own case." 8 Wright & Miller *Federal Practice & Procedure,* § 2174 at 555 (1970).

See Kainz v. Anheuser Busch, Inc., 15 F.R.D. 242 (D. Ill. 1953); *Adelman v. Nordberg Mfg. Co.,* 6 F.R.D. 383 (W. Wis. 1947); *RCA Mfg. Co. v. Decca Records, Inc.,* 1 F.R.D. 433, 435 (S.D.N.Y. 1940); *Hodge v. Osteopathic General Hospital of R.I.,* 249 A.2d 81 (R.I. 1969). The "Chamber's" objection to interrogatories 2 through 6 is hereby overruled.

(REMAINDER OF MEMORANDUM OMITTED IN PRINTING)

Respondent's Appendix.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GRINNELL CORPORATION,
v.
MARY C. HACKETT, Director of the Department of Employment Security of the State of Rhode Island and JOHN J. AFFLECK, Director of the Department of Social and Rehabilitation Services of the State of Rhode Island,
and
THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA and THE GREATER PROVIDENCE CHAMBER OF COMMERCE.

C. A. No. 4926

Answers To Interrogatories

Plaintiff Chamber of Commerce of the United States of America ("Chamber"), by its attorneys, hereby answers the interrogatories propounded to the Chamber by the United Steelworkers of America on July 17, 1974 as follows:

Interrogatory No. 1:

In response to Interrogatory No. 1, the Chamber has noted its objection and has filed a memorandum in support of that objection.

Interrogatory No. 2:

In response to Interrogatory No. 2, the Chamber has no information except as has been set forth in the depositions previously taken in this cause and at which Intervenor United Steelworkers of America was present. There is no formal report regarding the receipt of un-

employment compensation benefits to strikers made by or to the Chamber and the Chamber has no studies or information concerning its members in this respect. On information and belief, any compiled information, records or data concerning this subject is maintained by the State of Rhode Island.

Interrogatories 3, 14, 16, and 18:

In response to Interrogatories Nos. 3, 14, 16 and 18, the Chamber has no information except that which was given in previous depositions in this cause wherein Intervenor United Steelworkers of America was present and that contained in the affidavit of Herbert Northrup and study of Armand Thiebolt which are currently on file with the Court and have been served upon the other parties of this action.

Interrogatories Nos. 5 and 6:

In response to Interrogatories Nos. 5 and 6, the Chamber has no knowledge of any of the information requested therein.

Interrogatory No. 7:

Statement on H.R. 12625, Employment Security Amendments of 1969 before the House Ways and Means Committee for the Chamber of Commerce of the United States by Russell L. Hibbard, October 7, 1969.

"Welfare and Strikers: Heads They Win Tails You Lose", April 1973.

Congressional Action, Volume 17, Number 19, May 10, 1973.

Business News Features, #416, June 1973, entitled "Taxpayers *Do* Support Strikers".

Statement of the Chamber of Commerce of the United States of America to the House Committee on

Ways and Means on the Job Security Assistance Act, by Sam Dyer and Russell Hubbard, April 23, 1974.

Explanation and Justification of Job Security Assistance Act of 1974.

Washington Report, "Chamber Goal: Fair Play In Labor Laws."

"State Versus Federal Control of Unemployment Compensation."

The Chamber has no knowledge as to what communications, pamphlets, etc. may have been issued or distributed by member State and local chambers of commerce during the past ten years.

Interrogatory No. 8:

None.

Interrogatory No. 9:

In response to Interrogatory No. 9, the Chamber has noted its objection and has filed a memorandum in support of that objection.

Interrogatory No. 10:

The only procedure or program utilized by the Chamber in the last ten years for the purpose specified in Interrogatory No. 10 has been a general educational program consisting of the preparation and distribution of the documents listed in response to Interrogatory No. 7.

Interrogatory No. 11(a):

Richard Berman, Labor Relations Counsel, Chamber of Commerce of the United States of America, 1615 H Street, N.W., Washington, D.C. 20006.

Respondent's Appendix.

Interrogatory No. 11(b):

The Chamber has no knowledge or information sufficient to respond to Interrogatory 11(b). The program or procedure referred to in response to Interrogatory 10 was performed on an "in-house" basis and no breakdown was made with respect to the amount of money expended by the Chamber for such program or procedure.

Interrogatory No. 12:

None.

Interrogatories Nos. 13, 15, 17, 19, 21 and 22:

In response to Interrogatories Nos. 13, 15, 17, 19, 21, and 22, the Chamber has no knowledge of any of the information requested therein except that which is contained in the affidavit of Herbert Northrup and study of Armand Thiebolt.

Interrogatory No. 20:

No.

Respondent's Appendix.

/s/ RICHARD BERMAN
Labor Relations Counsel
Chamber of Commerce of the
United States
1615 H Street, N.W.
Washington, D.C. 20006

/s/ GERARD C. SMETANA
233 South Wacker Drive
Chicago, Illinois 60684

/s/ JERRY KRONENBERG
BOROVSKY, EHRLICH & KRONENBERG
120 South LaSalle Street
Suite 1820
Chicago, Illinois 60603

/s/ GUY J. WELLS
GUNNING, LA FAZIA, GUYS & SELYA
410 Turks Head Building
Providence, Rhode Island 02903
Attorneys for the Chamber of
Commerce of the United States

Of Counsel:

ALAN RAYWID
BURT A. BRAVERMAN
COLE, ZYLSTRA & RAYWID
2011 Eye Street, N.W.
Washington, D.C. 20006
(202) 659-9750

November 11, 1974

(CERTIFICATE OF SERVICE OMITTED IN PRINTING)

Respondent's Appendix.

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

Misc. No. 75-8017.

GRINNELL CORPORATION,
Plaintiff,
v.
MARY C. HACKETT ETC., ET AL.,
Defendants, Appellees,

THE CHAMBER OF COMMERCE OF THE UNITED STATES ET AL.,

Before COFFIN, Chief Judge,
MCENTEE and CAMPBELL, Circuit Judges.

Memorandum and Order
Entered March 7, 1975

Having considered the memoranda filed by the parties, we are of the opinion that enforcement of the district court's discovery order should no longer be stayed. In making this determination we have evaluated the likelihood that appellant will ultimately prevail despite the difficult hurdles which it faces, both as to jurisdiction and on the merits, and have endeavored to predict how our disposition of the stay request will affect the parties and the public interest. We are confident that the district court will remain sensitive to appellants' legitimate protective needs. The temporary stay granted by this court is hereby dissolved.

By the Court:
/s/ DANA H. GALLUP
Clerk.

[Cert. c. Clerk, U.S.D.C., R.I.; cc: Messrs. Joy, Pyle, Vetter, Rubinstein and Attorney General, R.I.]

Respondent's Appendix.

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 75-1083.

GRINNELL CORPORATION,
Plaintiff, Appellee,
v.
MARY C. HACKETT,
Defendant, Appellee,

THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AND THE GREATER PROVIDENCE CHAMBER OF COMMERCE,
Plaintiff-Intervenors, Appellants.

Before COFFIN, Chief Judge,
MCENTEE and CAMPBELL, Circuit Judges.

ORDER OF COURT

Entered September 9, 1975

The petition for rehearing filed August 11, 1975, is hereby denied.

By the Court:

/s/ DANA H. GALLUP
Clerk.

[cc: Messrs. Smetana and Milasich.]